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SENATE BILL 541

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

L. SKIP VERNON

AN ACT

RELATING TO ETHICS; AMENDING SECTIONS OF THE NMSA 1978 TO ALLOW
THE INTERIM LEGISLATIVE ETHICS COMMITTEE TO INVESTIGATE
COMPLAINTS OF FALSE STATEMENTS MADE BY CANDIDATES ABOUT THEIR
OPPONENTS DURING CAMPAIGNS FOR LEGISLATIVE OFFICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-15-8 NMSA 1978 (being Laws 1993,
Chapter 46, Section 53) is amended to read:

"2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE-- DUTIES. --

The interim legislative ethics committee is authorized to:

- A. issue advisory opinions on the interpretation and enforcement of ethical principles as applied to the legislature;
- B. investigate complaints from another member of the legislature or a member of the public alleging misconduct of a legislator;

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1 C. investigate complaints from a member of the
2 legislature or a member of the public alleging that a duly
3 qualified candidate for a state legislative office knowingly
4 made a false statement, whether verbally, in print, in a radio
5 or television broadcast or by any other means, about a duly
6 qualified opponent during a campaign for any legislative office;

7 ~~[C.]~~ D. investigate referrals made to the co-
8 chairmen of the New Mexico legislative council from the attorney
9 general, the secretary of state or a district attorney;

10 ~~[D.]~~ E. hire special counsel or independent hearing
11 officers as necessary; and

12 ~~[E.]~~ F. make recommendations to the respective
13 houses by the end of the first full week of the next convened
14 regular session regarding proposed sanctions for ethical
15 misconduct of legislators and candidates for the legislature. "

16 Section 2. Section 2-15-9 NMSA 1978 (being Laws 1993,
17 Chapter 46, Section 54) is amended to read:

18 "2-15-9. INTERIM LEGISLATIVE ETHICS COMMITTEE--
19 PROCEDURES--CONFIDENTIALITY.--

20 A. Except as provided in this section, the
21 New Mexico legislative council shall develop procedures to carry
22 out the provisions of this section, in accordance with the
23 existing procedures in the house and senate rules.

24 B. A member of the interim legislative ethics
25 committee ~~[shall be]~~ is ineligible to participate in any matter

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1 relating directly to that member's conduct or to a campaign for
2 a legislative office in which that member is participating. In
3 any such case, a substitute member to the committee shall be
4 appointed from the same house from the same political party by
5 the appropriate appointing authority. A member may seek to be
6 disqualified from any matter brought before the interim
7 legislative ethics committee on the grounds that the member
8 cannot render a fair and impartial decision. Disqualification
9 must be approved by a majority vote of the remaining members of
10 the committee. In any such case, a substitute member to the
11 committee shall be appointed from the same political party as
12 provided in this section.

13 C. The interim legislative ethics committee is
14 authorized to issue advisory opinions on matters relating to
15 ethical conduct during the interim. Any question relating to
16 the interpretation and enforcement of ethical principles as
17 applied to the legislature may be submitted in writing to the
18 New Mexico legislative council by a legislator describing a real
19 or hypothetical situation and requesting an advisory opinion
20 establishing an appropriate standard of ethical conduct for that
21 situation. The question shall be referred to the [~~joint~~]
22 interim legislative ethics committee.

23 D. The interim legislative ethics committee is
24 authorized to investigate complaints from members of the
25 legislature or members of the public alleging that a legislator

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1 or a duly qualified candidate for a state legislative office has
2 made one or more false statements about a duly qualified
3 campaign opponent.

4 [D-] E. To initiate any action during the interim on
5 alleged misconduct, any legislator or member of the public may
6 file a written, sworn complaint setting forth, with specificity,
7 the facts alleged to constitute unethical conduct. A complaint
8 shall be filed with the New Mexico legislative council. Upon
9 receipt of the complaint, the co-chairmen of the New Mexico
10 legislative council shall convene the interim legislative ethics
11 committee.

12 [E-] F. The interim legislative ethics committee
13 shall maintain rules of confidentiality unless the legislator
14 against whom a complaint is filed waives the rules or any part
15 of them in writing. The confidentiality rules shall include the
16 following provisions:

17 (1) the complainant, the committee and its
18 staff shall not publicly disclose any information relating to
19 the filing or investigation of a complaint, including the
20 identity of the complainant or respondent, until after a finding
21 of probable cause has been made that a violation has occurred;

22 (2) the identity of the complainant shall be
23 released to the respondent immediately upon request; and

24 (3) no member of the committee or its staff may
25 knowingly disclose any confidential information except as

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1 authorized by the committee.

2 G. If the interim legislative ethics committee finds
3 that a legislator or duly qualified candidate has made a false
4 statement about a duly qualified campaign opponent, the
5 committee shall issue a written report of its finding and shall
6 forward a copy of the written report to the complainant. A
7 separate copy of the written report shall be made available for
8 public inspection in the office of the legislative council
9 service."